

WEBINAR

FORVIS

Alabama Ethics 2022

September 21, 2022

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Hosted by FORVIS' Birmingham Office

Alabama Ethics 2022

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- **Professor of Accounting, John H. Sykes College of Business, University of Tampa**
- **Testifying expert in large and complex litigation typically focused on financial issues and conduct of accountants**
- **Arbitrator for disputes often involving the conduct of accountants**
- **Florida Board of Accountancy 2017-**
- **AICPA Joint Trial Board 2010-2017**
- **Significant focus in the area of professional liability of accountants**

Learning Objectives

By the end of this course, you will be able to:

- Recognize the Ethical Framework
- Identify Specific Alabama Ethics Requirements for CPAs and PAs
- Apply the Basic Independence Rules
- Evaluate Independence Challenges
- Recognize Ethics Issues for CPAs in Industry, Government and Education
- Discuss Recent Updates to Ethics Issues

Course Outline

- **Recent and Pending Ethics Issues**
- **Background and Underpinning of Ethics Development**
- **Ethical Framework**
- **Alabama Specific Law & Rules**
- **Independence & Objectivity Complexity**
- **Challenging issues for CPAs in Industry, Government & Education**

Staff Augmentation



Recent Ethics Issues

- NOCLAR – Focus on Senior Management (Members in Business)
- Nonattest Services
- Hosting of Information
- Staff Augmentation
- Records Requests
- Third Party Information Storage

Underpinning of Ethics & Independence

- Auditing until 1933 – The Roaring 1920's
- An Industry Borne from Market Crash (1929) and Taxes (1913)
- **Pre-1933 Auditors**
 - + Frequently Held Board of Directors Seats
 - + Permitted to Trade Client Stock
 - + Did not confirm with outside parties or test count inventory
 - + Promoted Client Companies
 - + Congress May Not Have Understood What Audits Are
 - + An Audit was Not Well Defined – Balance Sheet Audits

Underpinning of Ethics & Independence

- **Public Confidence in Markets Shaken in 1929**
- **Congress Considered Government Audit Corps**
- **Congress Confused Auditing and Accounting Functions**
- **Securities Acts Had Little to Say Initially**
- **NYSE Required Independent Audit**

60's & 70's Brought Changes and Focus on Independent Auditor

- **Continental Vending (US v. Simon) – Auditors Criminally Liable**
 - + Said They Complied with Standards – Related Party Transactions Glossed Over in Notes - Client Went Bankrupt Shortly After Report Issued
- **Escott v BarChris Construction – Client Personnel Former Auditors**
 - + Were Auditors Liable for Mistakes They Knew About in Financial Statements?
- **Lockheed Bribery Scandal**
- **Foreign Corrupt Practices Act**

2000 Era Scandals Bring More Enforcement Rules and Statutes

- **'99-'00 Enron, Worldcom, Xerox, Waste Management, Adelphia Cable, Rite-Aid**
- **Sparked Sarbanes-Oxley**
- **2008 Market Meltdown – Subprime Lending/Mortgage Backed Securities - Fannie/Freddie**
- **Sparked Dodd-Frank**
- **Impact on Auditors:**
- **Renewed Independence Emphasis – Prohibition on Services to Attest Clients**
 - + Spotlighted Objectivity, Integrity and Conflicts for Auditors
- **Whistleblower Rewards and Protections**

Broad Principles

In carrying out their responsibilities as professionals, *members* should exercise sensitive professional and moral judgments in all their activities.

Ethics Framework

Integrity

Objectivity

Professional Competence & Due Care

Confidentiality

Professional Behavior

Ethics Framework

Identify Facts

Inventory Ethical Issues/Stakeholders

Apply Principles, Rules & Values

Alternative Courses of Action

Compare Values and Alternatives

Compare Consequences

Consult w/Trusted Person

Make Decision

Client Asks – Under Pressure

Independence in Fact

Independence of mind is the state of mind that permits the performance of an audit without being affected by influences that compromise professional judgment, thereby allowing an individual to act with integrity and exercise objectivity and professional skepticism.

Not Completely Free of ALL Influences (Threats, Safeguards and Interpretations)

Independence in Appearance

Independence in appearance is the absence of circumstances that would cause a reasonable and informed third party, having knowledge of the relevant information, to reasonably conclude that the integrity, objectivity, or professional skepticism of audit organization or member of the audit team had been compromised.

Not Completely Free of ALL Influences (Threats, Safeguards and Interpretations)

Threats and Safeguards

- Self review threat
- Advocacy threat
- Adverse interest threat
- Familiarity threat
- Undue influence threat
- Financial self-interest threat
- Management participation threat – public practice only

Safeguards

- **Profession** – Education, Discipline, Peer Review
- **Client** – Integrity, Training, Governance, Selection of Firm, Demand for Quality
- **Firm** – Integrity, QC, Monitoring, Separate Reporting Lines, Continuing Disclosures, Acceptance and Continuance, Communication with Governance Groups, Training
- **Employer** – Hotline, Policies, Board Involvement, Segregation of Personal Assets, Culture of Ethical Behavior, Use Outside Resources for Significant Matters, Reporting Structure

Significant Alabama Issue

CPE Compliance Audit Cases

Case Count Up

CPAs “Inaccurately” Reporting CPE, Especially Ethics

Alabama Rules of Professional Conduct

- CPAs in Public Practice – comply with all parts of the Rules
- CPAs not in Public Practice
 - + Comply with Confidential Information, Acts Discreditable, Revocation or Disbarment by other State or Federal Agencies

Alabama Ethics

- **Independence – shall not express an opinion unless Independent**
- **Specific Alabama Prohibitions (during period of engagement/at issuance)**
 - + Direct or material indirect financial interest
 - + Trustee or executor of estate that had or was committed to acquire direct or material indirect financial interest
 - + Joint closely held business investment with entity or principal which was material to CPA net worth
 - + Loan except: immaterial, home mortgage, secured loan unless guaranteed by firm

Alabama Ethics

- **Independence – shall not express an opinion unless Independent**
- **Specific Alabama Prohibitions (during period covered by engagement/at issuance):**
 - + Promoter/Trustee/Officer/Director/Member of Management
 - + Trustee of Pension/Profit-Sharing Trust

Alabama Ethics

Integrity & Objectivity

- Prohibited from Knowingly Misrepresenting Facts
- Also Applies to Tax and Advisory
- No Subordination of Judgment
- Tax Practitioner May Resolve in Favor of Client if “Reasonable Support”

Alabama Ethics - AICPA

Standards Applicable (1982 Rule):

- AICPA Standards for
 - + Professional Competence
 - + Due Professional Care
 - + Planning and Supervision
 - + Sufficient Relevant Data
 - + Forecasts (no vouching for achievability)
 - + Auditing Standards
 - + Accounting Principles (presumably FASB today) unless departure justified
 - + Other Technical Standards

Alabama Ethics - AICPA

AICPA Code – 6 Principles

- Responsibility
- Public Interest
- Integrity
- Objectivity & Independence
- Due Care
- Scope and Nature of Services

Alabama Ethics - AICPA

Standards Applicable (1982 Rule):

Responsibilities:

- In carrying out their responsibilities as professionals, members should exercise sensitive professional and moral judgments in all their activities.
- Members also have a continuing responsibility to cooperate with each other to improve the art of accounting, maintain the public's confidence, and carry out the profession's special responsibilities for self-governance.

Alabama Ethics - AICPA

Standards Applicable (1982 Rule):

Public Interest:

- Members should accept the obligation to act in a way that will serve the public interest, honor the public trust, and demonstrate a commitment to professionalism.
- Credit grantors, governments, employers, investors, the business and financial community, and others who rely on the objectivity and integrity of members.

Alabama Ethics - AICPA

Standards Applicable (1982 Rule):

Integrity:

- To maintain and broaden public confidence, members should perform all professional responsibilities with the highest sense of integrity.
- “Am I doing what a person of integrity would do? Have I retained my integrity?”
(form and spirit of ethical standards)

Alabama Ethics - AICPA

Standards Applicable (1982 Rule):

Objectivity:

- A member should maintain objectivity and be free of conflicts of interest in discharging professional responsibilities.
- Impartial, intellectually honest, and free of conflicts of interest.

Alabama Ethics - AICPA

Standards Applicable (1982 Rule):

Due Care:

- A member should observe the profession's technical and ethical standards
- Due care requires a member to plan and supervise adequately any professional activity for which he or she is responsible.

Alabama Ethics

- Responsibilities to Clients
 - Not Disclose Confidential Information w/o permission *
 - + Except:
 - In furtherance of Attest work
 - Court issued subpoena
 - Quality Control
 - Inquiry of Disciplinary Body
 - Contingency Fees (for public practice) Prohibited:
 - + Audit, Review, Compilation for 3rd Party Use (w/o independence disclosure)
 - + Prospective Financial Statements
 - + Original or Amended Tax Return
 - + Fees may not depend on results (except if fixed by court or public authority)

* Applies by Rule to Non-Public Practice CPAs

Alabama Ethics

Responsibilities to Clients

- Avoid Acts Discreditable *
- Disbarment by Treasury, Agencies & Boards *
- False or Deceptive Advertising
- Commissions – Prohibited from Recommending, Referring Client when performing
 - + Audit, Review, Compilation for 3rd Party (w/o independence)
 - + Prospective Financial Statement Exam
- + Commission Disclosures – Required for Public Practice Members
- + Referral Fees require Disclosure

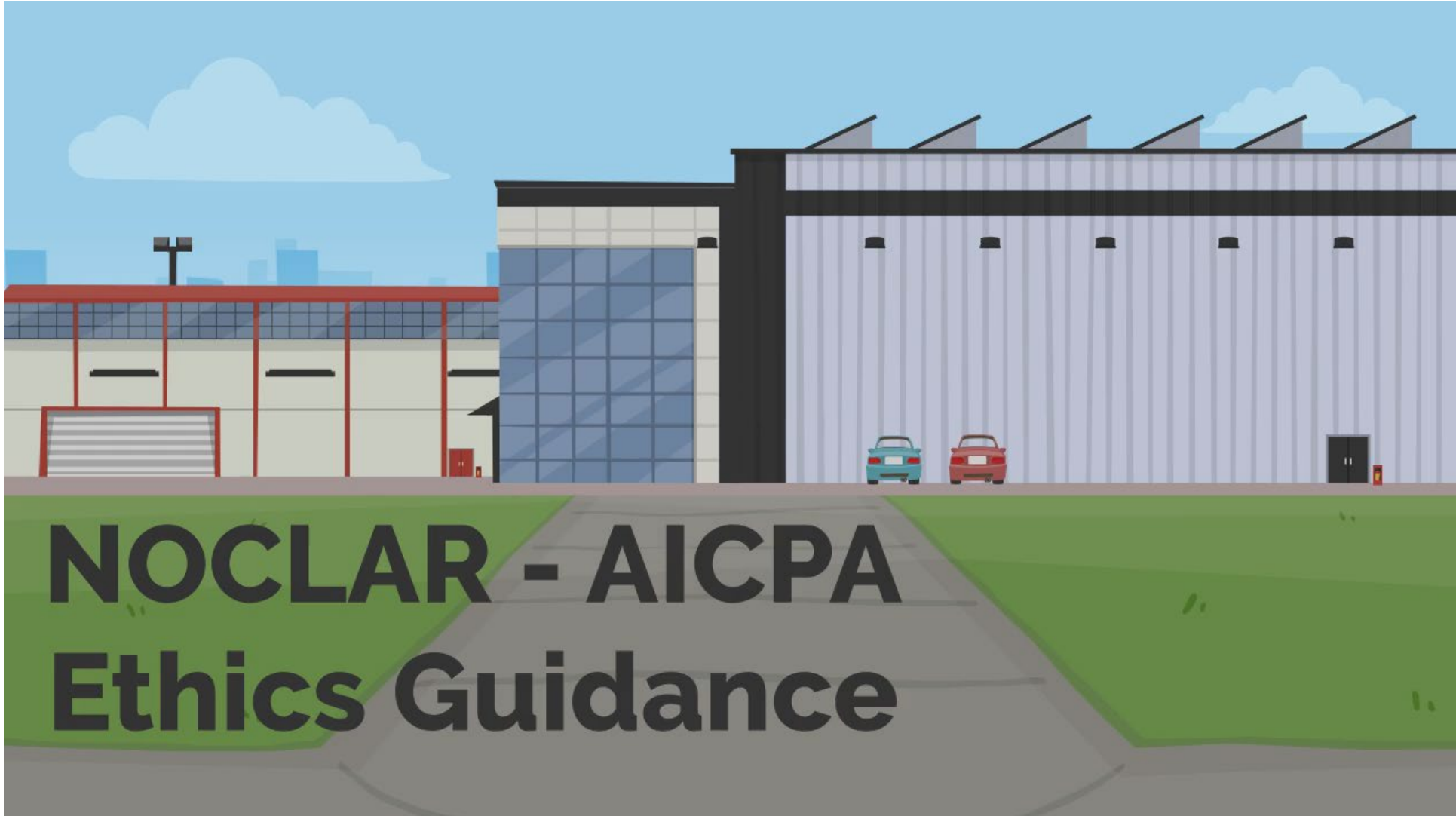
* Applies by Rule to Non-Public Practice CPAs

Alabama Ethics

Responsibilities to Clients

- Incompatible Occupations – Conflicts Prohibited
- Form of Practice/Name
 - + Any legal entity
 - + Name must not be misleading
- Professional Corporations
 - + All stock Must be Owned by CPAs (if practicing as CPA)
 - + At least one member of the board must be Alabama CPA
 - + CEO Must be a CPA (and revocation suspends right to practice)

NOCLAR



**NOCLAR - AICPA
Ethics Guidance**

Independence/ Objectivity Risks in Action – Industry, Government

- Employment Discussions
- Gift and Entertainment from Vendors
- Indemnification
- Vehicle Purchase
- Old Chum's Wedding

Ethical Conflicts

- Respond to Pressures
- Conflicting Standards/Obligations (report a fraud/breach confidentiality)
- Comply with Laws
- Conflicts between Employer Parties (partnership)
- Can Safeguard Eliminate Threat? (Disclosure?)

Ethical Challenges

- Confidential Information - What Can and Should be Disclosed?
- Non-Attest Services
- Public Perception
- Ask for Indemnification (of Employer)
- Knowing Misrepresentation of Information (Proforma to externals)
- Volunteer Activities

Ethical Challenges

- Subordination of Judgment
- Self-Interest
- Obligations to External Accountant – Code of Professional Conduct
- Educators
- Accounting Principles Rule (not misleading)
- Acts Discreditable
- Employment Discrimination

Ethical Challenges

- Help Client Find Financing
- Assist in Designing New Payroll System
- Evaluate Client Employee Performance
- Gifts and Entertainment – Use “our place”
- Trustee/Executor

Ethical Challenges

- Knowledge of Error
- Inquiries of External CPAs
- Pressure by Management vs. Ethical Obligations
- The “Procurement Department”
- Self Reporting vs. Departure

Let's Answer Everyone's Questions

Sometimes This Subject Lends Itself to Telephone Conversations



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